CASE OF MR. WILLIAM PATERSON,
REPORTS AND EXTRACTS
OUT OF THE REGISTER BOOKS.

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# THE
# STATE
## OF
## Mr. *Paterſon's* CLAIM
### Upon the EQUIVALENT.

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# Mr. Paterſon's Claim
## UPON THE
# EQUIVALENT
## CONSIDER'D,
## By Council Learned in the Law.

AN Act paſſed in *Scotland*, which conſtitutes ſeveral Perſons therein named, together with ſuch others as ſhould joyn with them in Manner, and within the Space of Time therein mentioned, one Body Incorporate, by the Name of the Company of *Scotland* Trading to *Africa* and the *Indies*. *June* 26, 1695.

" By a ſubſequent Clauſe of the ſame Act, there is ſpecial Power " granted to the foreſaid Company (that is, to the Perſons named in " the ſaid Act) by Subſcriptions or otherwiſe, as they ſhould think fit, " to raiſe a Joint Stock or Capital Fund of ſuch a Sum or Sums of Mo- " ney, and ſubject unto ſuch Rules, Conditions and Qualifications, as " by them or the major part of them, when aſſembled, ſhould be limit- " ed or appointed, to begin, carry on, and ſupport their intended Trade " and Navigation, *&c.*

By a further Clauſe of the ſame Act, " The Books, Records and Re- " giſters of the ſaid Company, or authentick Abſtracts or Extracts out of " the ſame, are made and declared to be good and ſufficient Evidence in " any Court of Law, granting likewiſe to the ſaid Company in General " all Powers, Rights and Privileges, that by the Laws are given to " Companies allowed to be Erected, *&c.*

The Members in the ſaid Act named, or the major Part of them, met at *London* to conſider of a Method to carry on the Trade, which in Truth had with great Pains and Expence been projected by Mr. *Paterſon*: And at this Meeting they framed and agreed to certain Rules, Orders and Conditions, which they entred in Books for that Purpoſe, and ſet the ſame at the Head of their own Subſcriptions, as well as the Subſcriptions of all others, who would be concern'd in the Company's Joint Stock, taking therein ſpecial Notice of the great Services which Mr. *Paterſon* had done for Eſtabliſhing the Company. In conſideration whereof it was thereby Specially agreed, That Mr. *Paterſon* ſhould receive two ℔ *Cent.* of all the Money that ſhould be ſubſcribed, and alſo three ℔ *Cent.* out of the Profits and Product of the ſaid Fund. Whereto the ſaid Mem- *Nov.* 6. 1695.

Members, or the major Part of them present at that Meeting, and who constituted the Company, did subscribe; and several other Subscriptions were then taken at *London*, amounting in the whole to £ 300000.

Soon after this, the several Members in the Act named, or the Major part of them, retired with the said Books into *Scotland*, and there opened another Book to take in further Subscriptions; in which there was a subsequent Entry made, referring to the Conditions, Rules, and Order abovementioned, in these Words; "Pursuant to an Act of Parliament, *Feb. 6. 169⅝.* "entituled, An Act for a Company trading to *Africa* and the *Indies*, "We the Subscribers, do each of us for himself become obliged for the "Payment of the respective Sums severally subscribed by us, subject to "the Rules, Conditions, and Constitutions of the said Company: And accordingly several Subscriptions amounting to the further Sum of £ 400000 were entred there.

By the Treaty of Union, the advanced Stock of the said *Indian* Company in *Scotland*, with Interest at 5 *per Cent.* was to be paid out of the *Mar. 25. 1707.* Equivalent: And to this purpose, an Act passed in *Scotland*, appointing certain Commissioners to state what was due to the said Company for Principal and Interest, and also what their Debts amounted to; the same being likewise appointed to be paid out of the Equivalent

But Mr. *Paterson*'s demand was omitted.

Upon this, Mr. *Paterson* apply'd himself to the Parliament of *Great Britain*, and by an Act made in the Sixth of the Queen, it is provided, "That no Neglect or Omission of the said Company, or of others con- "cern'd, in adjusting their Claims upon the Equivalent, shall preju- "dice Mr. *Paterson*'s Demand; but that what is due to him shall be cer- "tified and paid in the Terms of the Treaty of Union, as the same shall "be proved before the Judges of the Court of Exchequer in *Scot- "land*.

*Query* I. Is Mr. *Paterson* entitul'd to the Two *per Cent.* and Three *per Cent.* abovementioned, by Vertue of the Preamble, and Subscription aforesaid? Or in other Words; Was the *Scots* Company before the Union liable to pay the said £ 2 and £ 3 *per Cent.*

Upon Perusal and Consideration of the *Scots* Act for erecting the *African* and *Indian* Company: The Articles of the Union, the Act in *Scotland*, for directing the Payment of the Equivalent, and the Act of the Sixth of Her Majesty concerning Mr. *Paterson*, all of them being abovementioned. I am of the Opinion, that the *Scots* Company before the Union was liable to pay Mr. *Paterson* the £ 2 and £ 3 *per Cent.* abovespecified.

Sign'd John Carter Brown Library *Sam. Dodd.*

The Patentees mention'd in the *Scots* Act, being thereby constituted a Body incorporate, with special Power to assume others, and to raise a Joint-Stock, subject to such Rules, *&c.* as by them, or the major Part of them, should be appointed, I conceive the Rules and Conditions prescrib'd, in the Preamble at *London*, by the Majority of the Patentees, and subscrib'd to by such as were assum'd, does oblige the whole Society, as well such as subscrib'd in *Scotland*, (tho' the Preamble be not specially premised to their Subscriptions) as those who subscrib'd in *England*, by Reason that by the Preamble premised to the *Scots* Subscriptions, the Subscribers are ob-

oblig'd to the Rules, Conditions, and Conſtitutions of the Company, and ſuch only for that Time was the Preamble at *London* made by the Patentees, who, at the Time of making thereof, had by the Act of Parliament, the full Power of the Company in their Perſons; and all the Subſcribers being Members of one Society, there was no Occaſion for Repeating ſpecially the Preamble, at the Openning of the Books in *Scotland*.

I am further confirm'd in this Opinion, upon Peruſal of the Act of the General Council of the Company, ordaining the *Engliſh* Subſcriptions to be inveſted in the Directors, for the Uſe of the Company, who were impower'd to transfer the ſame to ſuch as ſhould thereafter become Proprietors; for thereby the Intereſt in the Joint-Stock, ariſing from the *Engliſh* Subſcriptions, was not ſunk; but ſuch Perſons as afterwards ſubſcrib'd, had Right in the Joint-Stock, in the ſame Manner as the *Engliſh* would have had, and conſequently are liable to the ſame Burden, that is, the Two *per Cent.* and other Profits, mention'd in the Preamble.

And the General Council concerning themſelves with the Subſcriptions made in *England*, of which the Preamble was evidently a Part, as no Member of the Society could refuſe to be bound by their Acts, ſo none can refuſe to be ſubjected to the Two *per Cent.* ſtipulated in the ſaid Preamble.

As the Premium due to Mr. *Paterſon* was thus a Debt of the Company, and conſequently ought to have been charg'd upon the Equivalent, I am of the Opinion, that the Omiſſion in not Stating the ſame in due Time, is remedied by the *Britiſh* Act.

Signed,

*James Graham.*

If yea? Are the Company's Books, or Extracts out of them, a ſufficient Proof of the Debt? or is any other? and what Proof is neceſſary to be made? *Query* II.

I think the Company's Books, or Extracts out of them, a ſufficient Proof in this Caſe.

Signed,

*Sam. Dodd.*

I am of Opinion, That the Extracts out of the Company's Books, are a ſufficient Proof in this Caſe.

Signed,

*James Graham.*

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